IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1439 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI, J.
DATED : 13th MARCH, 2007.

Heard Advocate Shri P.A.Deshmukh for petitioner and Advocate Miss Bhange holding for Advocate Shri Sambre for respondent No.1.

The courts below have concurrently refused to grant temporary injunction to petitioner/original plaintiff, who claims to have purchased the property mortgaged by other respondents to the Urban Co-operative Bank Ltd., Pusad, Distt.- Yavatmal.

Advocate Shri Deshmukh contends that in view of Section 94(3)(a) of the Maharashtra Cooperative Societies Act, 1960, the petitioner ought to have been joined as party to the proceedings before the Assistant Registrar, Cooperative Societies, for issuance of Recovery Certificate. The courts below have concurrently found that the property was already mortgaged and petitioner plaintiff has purchased said property on which respondent No.1 had its first charge. Section 94(3)(a) of the said Act speaks of proceedings before the Co-operative Court. The present petitioner

has not approached the Cooperative Court. Hence, there is no perversity or jurisdictional error in the approach of both the courts below.

Writ petition is accordingly dismissed. No costs.

JUDGE

Pdiwale